

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

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|---------------------------|---|-----------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | Case No. 3:25-cv-1233 |
| Petitioner, |) | |
| |) | |
| v. |) | |
| |) | |
| JUSTIN T. EDERLE, |) | |
| |) | |
| Respondent. |) | |

MOTION FOR ALTERNATIVE SERVICE OF RESPONDENT

Pursuant to the Federal Rules of Civil Procedure 4 and 4.1, the Petitioner, the United States of America, respectfully requests this Court permit it to serve the Respondent by alternative means. The accompanying Declaration of Emily McClure, with exhibits B and C attached thereto, and Declaration of Luis Tirado demonstrate that Mr. Ederle is evading formal service in hand.

The United States filed a Petition to Enforce IRS Summons against Respondent Justin T. Ederle. ECF No. 1. The Court thereafter entered an Order to Show Cause, and directed service be effectuated pursuant to Rules 4(c) and 4.1(a). ECF No. 3. Shortly thereafter, the United States designated Deputy United States Marshal Victor Vivó to effectuate service in this case. Ex. A, *McClure Decl.*, ¶¶ 6–7; Ex. B, *Email from Deputy Vivó* at 6. Deputy Vivó attempted service on Mr. Ederle twice. Ex. B, *Email from Deputy Vivó* at 2–4. Additionally, Deputy Vivó attempted to contact Mr. Ederle via phone. *Id.* Mr. Ederle did finally answer the phone, but once he understood Deputy Vivó’s intention, he hung up and would not call back. *Id.*, at 2.

In addition to these attempts, the United States sent the following documents to Mr. Ederle via USPS certified mail with tracking number 7012 2920 0000 2668 3419: petition (ECF No. 1), declaration of Agent Anton Pukhalenko (ECF No. 1-1), summons (ECF No. 1-2),

proposed order to show cause (ECF No. 1-3), civil cover sheet (ECF No. 1-4), and Order to Show Cause entered by the Court (ECF No. 3). Ex. A, *McClure Decl.*, ¶ 8. According to the tracking website for the United States Postal Service, the USPS attempted delivery of the certified mailing on June 9, 2025. *Id.*, ¶ 9; Ex. C, *USPS Tracking Information*. The USPS was unable to deliver the certified mail because no authorized recipient was available. Ex. C, *USPS Tracking Information*, at 1. At this time, Mr. Ederle has neither scheduled a redelivery nor retrieved the certified mailing from the Post Office. *See id.*, at 1.

The undersigned then designated Revenue Agent Luis Tirado to effectuate service in this case. Ex. D, *Tirado Decl.*, ¶ 5. Agent Tirado attempted personal service on Mr. Ederle three times. *Id.*, ¶¶ 6–8. All three attempts were unsuccessful. *Id.* Agent Tirado then left a copy of the petition (ECF No. 1), declaration of Agent Anton Pukhalenko (ECF No. 1-1), summons (ECF No. 1-2), proposed order to show cause (ECF No. 1-3), civil cover sheet (ECF No. 1-4), and Order to Show Cause entered by the Court (ECF No. 3) all taped to the door of his residence. *Id.* at ¶ 8. Agent Tirado later returned to the residence and found that the documents had been removed from the door. *Id.*, ¶ 9. Additionally, when Agent Tirado returned, he attempted to leave the documents with another adult in the house, but again Mr. Ederle evaded service by refusing to come to the door. *Id.*, ¶¶ 9–11.

A petition to enforce a summons typically requires service under Fed. R. Civ. P. 4.1, as the Petition does not include a summons to be served under Rule 4, and it is not a pleading or other paper identified in Rule 5. While Rule 4 of the Rules of Civil Procedure of Puerto Rico outlines the methods by which a summons may be served, the rules do not include instructions parallel to that of Fed. R. Civ. P. 4.1 for actions such as this. However, the Puerto Rico Rules do include a section related to petitioning the Court for a deposition prior to commencement of an

action. In that case, notice of such petition “shall be served in the manner provided by Rule 4.4 for service of summons If such service cannot with due diligence be made upon any of the persons named in the petition, the court may make such order as is just for service by publication or otherwise” P.R. R. Civ. P. 24.1(b).

The United States has made five separate attempts to physically serve the Respondent to no avail. Ex. B, *Email from Deputy Vivó* at 2–4; Ex. D, *Tirado Decl.*, ¶¶ 6–8. The United States has also attempted to contact the Respondent via phone. Ex. B, *Email from Deputy Vivó* at 2–4. The Respondent was made aware of this proceeding but has since failed to return the phone call of Deputy Vivó. *Id.* at 1. The United States Marshal Service, the Internal Revenue Service, and the United States Postal Service have all attempted to deliver notice of this action to the Respondent. Ex. A, *McClure Decl.*, ¶¶ 6–9; Ex. B, *Email from Deputy Vivó*, Ex. C, *USPS Tracking Information*, Ex. D, *Tirado Decl.*, ¶¶ 6–8. Thus, the United States has demonstrated due diligence in attempting to obtain personal service of process in the manner prescribed by this Court’s Order (ECF No. 3). Based on these facts, the Respondent is evading service of process. When a defendant seeks to evade process, the Court has discretion to authorize alternative service. *AngioDynamics, Inc. v. Biolitec AG*, 780 F.3d 420, 428–29 (1st Cir. 2015).

The United States has left copies of the petition, exhibits, and this Court’s Order at the Respondent’s address. Ex. D, *Tirado Decl.*, ¶¶ 8–9. The United States has also sent copies of the petition, exhibits, and this Court’s Order via certified mail, and the USPS has left notice of the mailing at Respondent’s address. Ex. A, *McClure Decl.*, ¶¶ 8–9; Ex. C, *USPS Tracking Information*. Furthermore, the Respondent was made aware of these proceedings via phone call with Deputy Vivó. Ex. A, *McClure Decl.*, ¶ 7; Ex. B, *Email from Deputy Vivó* at 2. Accordingly, the United States respectfully requests the Court authorize one or more of these attempts as

alternative service and find that the Respondent has been properly served with the Petition to Enforce IRS Summons and Exhibits (ECF No. 1; ECF No. 1-1; ECF No. 1-2) as well as this Court's Order to Show Cause (ECF No. 3).

Dated: June 16, 2025

Respectfully submitted,

/s/ Emily K. McClure
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CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of June, 2025, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all registered to receive it. In addition, on the same day, I sent the foregoing document via first class USPS mail to:

Justin T. Ederle
75 Fairways Village Drive, #12
Dorado, Puerto Rico, 00646

/s/ Emily K. McClure
EMILY K. McCLURE
Trial Attorney
United States Department of Justice, Tax Division